

**Minutes of the Regular Meeting of The
New Jersey Maritime Pilot & Docking Pilot Commission
February 19, 2013**

The regular meeting of The New Jersey Maritime Pilot and Docking Pilot Commission was held on Tuesday, February 19, 2013 at One Penn Plaza East, 9th Floor, Newark, NJ 07105.

Commissioner Stapleton called the meeting to order at 10:02am.

Pledge of Allegiance

Open Public Meeting Statement

Roll Call

Commissioner Timothy J. Dacey, present; Commissioner Charles Stapleton, present; Commissioner Charles Wowkanech, present.

Commissioner Stapleton welcomed Brett Tanzman from the Governor's Authorities Unit to the meeting who was filling in for Nicole Crifo via teleconference.

Committee Assignments

After a review of the Commission's activities and the availability of the Commission's current members Commissioner Stapleton proposed the attached reorganization of the Commission's committees and has made assignments as appropriate.

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to pass Resolution #13-02 to approve the Committee assignments for the calendar year 2013.

All voted in favor.

Minutes of Prior Meetings

A motion was made by Commissioner Wowkanech and seconded by Commissioner Dacey that the minutes of the January 15, 2013 regular meeting be approved.

All voted in favor.

Treasurers Reports

A motion was made by Commissioner Wowkanech and seconded by Commissioner Dacey to pass Resolution #13-03 to approve the February 2013 Treasurers Report.

All voted in favor.

Executive Director's Report

The Commission's staff met with the Docking Pilot Organizations on January 31, 2013. The purpose of the meeting was to go over the regulatory clean-up. There was a brief discussion regarding the new requirement for docking pilots to maintain an ARPA certificate and the requirement to have two physicals after the age of 65.

Captain Sarubbi also discussed the second phase of the regulatory clean-up which would include revisiting the docking pilot and docking pilot apprentice sections. He would like to establish a working group which would include a person from each docking pilot organization to help with the second phase of the clean-up.

The proposed regulations have been submitted to the Governor's office for approval. Captain Sarubbi has been informed that the turn around time to review regulatory rule proposals is ten days. A resolution will be put on the March 19, 2013 meeting agenda for the Commission to vote on the rule proposal.

Commissioner Stapleton asked Brett Tanzman to follow-up on the submission to make sure the approval is received in a timely manner.

Captain Sarubbi briefed the Commissioners on the following issues:

Bayonne Bridge - The Coast Guard is the lead federal agency and must approve the Port Authority of New York and New Jersey's project to raise the Bayonne Bridge. In December 2012, the Coast Guard published a Draft Environmental Assessment (DEA) for public comment, pursuant to the National Environmental Policy Act. The Coast Guard held three public meetings to solicit comments on the DEA. Captain Sarubbi attended the meeting in Newark on Wednesday February 13, 2013. The meeting was well attended with over 100 people in attendance, representing elected officials, shipping, business and trade organizations,

unions, environmental groups and citizen action groups. Speakers were generally in favor of raising the bridge, stating that the project is good for the economy and jobs. Numerous environmental coalitions and Newark community action groups spoke at the hearing. While supporting the project many speakers from these organizations felt that the project would have significant impact on the environment and the Newark communities that border the marine terminals in Port Newark and Port Elizabeth, bringing increased numbers of trucks and resulting air pollution into their communities. They were concerned that the DEA did not address the impact of these issues on their communities. Some of these groups asked the Coast Guard to conduct a full Environmental Impact Statement to more fully assess the impact of raising the bridge, particularly the project's impact on the City of Newark. Captain Sarubbi is in the process of drafting a letter supporting raising the bridge for submission to the Coast Guard's docket. The letter must be submitted to the Governor's policy office for approval. The deadline for submitting the letter to the Coast Guard docket is March 5, 2013.

Physical Oceanographic Real-Time System (PORTS) Funding - The Port Authority of New York/New Jersey has funded Ports Operational and Maintenance Costs (O&M) since the system became operation in the mid 1990s. Annual O&M costs run about \$138,000. After March 31, 2013, the Port Authority will no longer fund PORTS O&M costs. Because of the lack of funding, NOAA will begin to take the sensors down as they malfunction.

Captain Sarubbi asked Captains McGovern and Flannery to brief the Commissioners on the affect this would have on the port community.

Captain McGovern informed the Commission that NOAA will begin to remove the sensors as they malfunction, however, if funding is not found by October 2013 all sensors will be removed. The pilots recently met with the Coast Guard and New York Shipping Association to discuss new parameters that would have to be put in place once PORTS goes down. The pilots will need to increase tolerances to give themselves "wiggle room" because predicted tides and currents are typically different from actual tides and currents. To provide an adequate safety factor, it was agreed at the meeting that the Coast Guard's 2 foot Bayonne Bridge air gap requirement would be increased to 4 feet and the Harbor Operations Committee recommended two foot under keel clearance would be increased to 4 feet. This may cause cargo to be diverted to other ports. The container terminal business will be greatly affected.

Captain Flannery informed the Commission that loosing the PORTS system may result in traffic being driven away from the port.

Captain Sarubbi informed the Commission that Ed Kelly is scheduled to meet with Nicole Crifo and the Governor's policy staff regarding this issue.

Commissioner Stapleton informed all that the Commission has gone on record and expressed its willingness to help seek an appropriate solution that would help maintain safety in the Harbor.

Carteret Marina - Captain Sarubbi gave the Commission a brief summary on the history of the proposed marina at Carteret. He will continue to monitor this issue and keep the Commission updated.

Commissioner Stapleton asked Ms. Schwartz to look into this issue and advise the Commission what the timeline would be before construction begins. Once the Commission receives this information, they will decide what course of action they should take.

Public Comment

Comments from Captain Robert Flannery, President, Metro Pilots Association:

Captain Flannery informed the Commission that Metro Pilots Association held its annual elections. Captain Flannery was voted President and Captains Reinbold and Nilsen were appointed board members.

The pilots met with the Port Authority regarding maintenance dredging in the Port Newark Channel. Maintenance dredging has not been done in the channel since 2004. At that time, only half was done due to lack of funding.

The wind sensors should be installed on the VTS structure at Shooters Island in the near future. Captain Flannery will keep the Commission apprised of its status.

Comments from Captain Andrew McGovern, President, the Sandy Hook Pilots Association:

The Sandy Hook Pilots Association held their annual elections. There was no change in the Executive Committee. Captain Tom Ferrie was voted Chair of the finance Committee.

After reviewing all possibilities the pilots have decided that it would be economically sound to demolish the current buildings at Edgewater Street and rebuild to the new specifications. They have signed a 2-year lease for a temporary location. The dock is currently under construction.

Committee Reports

A. Investigation Committee:

- I. **M/V Imari** - October 28, 2011 - Allision.
Commissioner Dacey has completed the report and asked staff to circulate it to the Commission for review. It will be voted on at the March 19, 2013 meeting.
- II. **Miramarin** - December 13, 2012 - Allision. Captain Sarubbi recommended that the board find no fault on the part of the docking pilot. A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to accept the recommendations in the report. All voted in favor.
- III. **NYK Diana** - January 12, 2013 - Power loss. Captain Sarubbi recommended that the board find no fault on the part of the docking pilot. He also pointed out that Captain Flannery's skillful response and expert ship handling prevented the container ship from grounding and should be commended. Commissioner Stapleton recommended that the report be amended to include a copy of the report be placed in Captain Flannery's file. A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to approve the recommendations as amended. All voted in favor.

Commissioner Stapleton voiced the Board's concern regarding the number of vessels that are involved in bridge strikes. Our investigations indicate that in most cases the pilot is given the wrong air draft. The Commission feels as if the vessel owner should be held accountable. Even though the vessel owners are not under the jurisdiction of

the Commission, a strongly worded letter indicating that our pilots will not undertake the voyage of the vessel without the correct information may help alleviate this problem.

Commissioner Dacey pointed out that in the past the bridge would be closed down for hours after a bridge strike to make sure the structure was not damaged. He expressed his concern that with the amount of bridge strikes that have been occurring lately the under belly of the bridge may weaken the road structure and lead to serious fatalities.

Captain Sarubbi informed the Commission that the Coast Guard has the jurisdiction to investigate and enforce sanctions on the vessel owners. He is in the process of setting up a meeting with the Coast Guard and the New York Commission to discuss this issue. He will keep the Board apprised of the outcome.

Resolution #13-03 to Approve the Appointment of a Maritime Pilot Apprentice

Captain Andrew McGovern introduced potential apprentice Salvador Rivas to the Commission. Mr. Rivas gave the Commission a brief summary of his background and thanked them for the opportunity.

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to pass Resolution #13-03 to appoint Salvador Rivas, III into the Sandy Hook Pilots' apprentice training program.

All voted in favor.

Bayonne Bridge Presentation

Captain Sarubbi introduced Joann Papageorgis, Program Director, Bayonne Bridge Program Tunnels, Bridges & Terminals Department. She gave a PowerPoint presentation which outlined the process that was followed in finding a viable solution to raise the bridge with a timeline for its completion. After the presentation there was a question and answer session.

The Commission thanked Ms. Papageorgis for the presentation and expressed their desire to work with the Port Authority to see the project to raise the bridge to fruition.

New Business

Commissioner Dacey asked counsel to give a legal opinion as to whether the Governor's office has the statutory authority to exercise veto power over a private firms hiring and promotion of their employees. He finds it difficult to understand why an administration that advertises itself as job friendly would attempt to interfere in the hiring practices of a privately owned and operated company. He feels as if the requirement to have the appointments and promotions of the pilot's subjected to gubernatorial veto is an overreach of the Governor's authority.

Executive Session

WHEREAS, the Open Public Meetings Act provides that a public body such as The New Jersey Maritime Pilot and Docking Pilot Commission may meet in closed session to discuss personnel and legal matters.

WHEREAS, the Commission desires to meet in closed session to discuss such matters.

NOW THEREFORE, be it resolved that the Commission shall at this time meet in closed session to discuss such matters the substance of the closed session would be disclosed publicly only if it would not warrant an invasion of privacy or constitute a breach of the attorney client privilege.

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech that the Commission goes into Executive Session.

All voted in favor.

The Commission took a break at 11:31am.

Return to Public Session

A motion was made by Commissioner Dacey and seconded by Commissioner Stapleton that the Commission return to Public Session. All voted in favor.

The Commission returned to Public Session at 12:50pm.

Pilot Upgrades

A motion was made by Commissioner Dacey and seconded by Commissioner Stapleton to pass Resolution #13-06 to approve the upgrade of Captain Thomas O. Ferrie to a pilot of the First

Grade. The upgrade, pending gubernatorial veto, will become effective on March 12, 2013.

All voted in favor.

Captain Ferrie was sworn in as a First Grade Pilot by Commissioner Stapleton.

A motion was made by Commissioner Dacey and seconded by Commissioner Stapleton to pass Resolution #13-07 to approve the upgrade of Captain Joseph Paulis to a pilot of the Third Grade. The upgrade, pending gubernatorial veto, will become effective on April 1, 2013.

All voted in favor.

Commissioner Stapleton pointed out that the pilot interviews were very informative. He was also pleased to see that the distribution of Commission Advisory #001-12 has resulted in the pilots taking extra precautions during their Master Pilot Exchanges by visually inspecting the ships antennae in an attempt to avoid bridge strikes.

Adjournment

A motion was made by Commissioner Dacey and seconded by Commissioner Stapleton that the meeting be adjourned. All voted in favor.

The meeting was adjourned at 1:00pm.